

REMARKS

Entry of the foregoing, re-examination and reconsideration of the subject matter identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.112, and in light of the remarks which follow, are respectfully requested.

New claim 8 has been added. Support for the lower end of the range may be found on page 9, line 11 and support for the upper end may be found on page 9, line 16.

Claims 1, 2 and 4-8 are now pending in this application.

Claims 1, 2 and 4-7 were rejected under 35 U.S.C. §112, second paragraph, for the reasons given in paragraph (2) on page 2 of the Office Action.

Reconsideration and withdrawal of this rejection are respectfully requested for at least the following reasons.

The legal standard for ascertaining whether a claim is in compliance with the second paragraph of 35 U.S.C. §112 is to determine whether the claims reasonably apprise those of ordinary skill in the art of their scope (In re Warmerdam, 33 F.3d 1354,1361; 31 USPQ2d 1754,1759, Fed. Cir. 1994). In considering whether this standard has been met, the language in the claim must be analyzed, not in a vacuum, but in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art. In re Johnson, 558 F.2d 1008,1015, 194 USPQ 187,193 (CCPA 1977).

The Examiner alleges that the scope of the phrase "relatively low value" in claim 1 is indefinite because the specification does not provide a standard for determining what "relatively low" means. Therefore, according to the Examiner, one of ordinary skill would not be reasonably apprised of the scope of the claims. Respectfully, Applicant disagrees.

When a word of degree is used, it is necessary to determine whether the specification provides some standard for measuring that degree. See Seattle Box Company, Inc. v. Industrial Crating & Packing, Inc., 731 F.2d 818,826, 221 USPQ 568, 573-74 (Fed. Cir. 1984). Applicant's specification does numerically specify a range to exemplify what is meant by a relatively low value for the air flow resistance of the facing material. Note page 9, paragraph [0019]: "For example, a relatively low facer resistance can range from around 100 to 500 MKS Rayls." A specific example of a suitable system is described in the last sentence of paragraph [0019] where the facing material has an air flow resistance of 642 Rayls. From this disclosure, it is clear that the present specification provides a standard and a range (100 to 642) for determining what a relatively low air flow resistance means.

Applicant points out further that claim 2 specifies a range defining the relatively low value. Thus, it is not clear why the rejection is applicable to claim 2.

Based on the above arguments, withdrawal of the §112 rejection is requested.

Claims 1, 2 and 4-7 were again rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,824,973 to Haines et al. in view of U.S. Patent No. 6,182,787 to Kraft et al. for the reasons given in paragraph (3) on page 3 of the

Office Action. Reconsideration and withdrawal of this rejection are respectfully requested for at least the reasons which follow.

Claim 1 is directed to a system for improved sound absorption including a substrate of porous insulation material and a facing material attached to the substrate wherein the air flow resistance of the facing material is of a relatively low value. The total system air flow resistance of the system is around 900 to 1300 MKS Rayls. The combined disclosures of the cited art do not suggest such a system.

It is acknowledged in the Office Action that Haines et al. '973 does not disclose a sound absorption system wherein the total system airflow resistance is around 900 to 1300 MKS Rayls. Haines et al. '973 discloses a sound absorption laminate having a total air flow resistance of 740 MKS Rayls (column 7, line 26) which is considerably below the minimum value of the range in the present claims. As a matter of fact, this reference teaches that the sound absorption characteristics of a porous insulation substrate can be enhanced through the application of a high air flow resistance facing to the substrate (column 3, line 67 to column 4, line 3). To the contrary, the present claims specify a facing whose air flow resistance is a relatively low value.

The Office Action alleges that Kraft et al. '787 discloses a total system air flow resistance of 20 to 100 CGS Rayls (column 4, line 64). The Action concludes that it would have been obvious to modify the laminate of Haines et al. '973 to have a total resistance in the range of 900 to 1300 MKS Rayls in view of the teachings of Kraft et al. '787. Applicant respectfully submits that the conclusions drawn by the Examiner from Kraft et al. '787 are unsound.

The disclosure in Kraft et al. '787 regarding a steady air flow resistance of about 20 to about 120 CGS Rayls in column 4, line 64 refers to the honeycomb filler material 105 located between the air-permeable facing sheet 102 and the air-impermeable backing sheet 104. The disclosure in column 4, lines 30-32 indicates that each of the walls 108 of the cells 106 of the honeycomb is preferably formed of a porous material that provides a desired level of air flow resistance. The disclosure at column 4, lines 56-65 of Kraft et al. '787 further indicates that the porosity of the cell walls 108 must be tailored to achieve a desired level of air flow resistance through the cells 106: "Air flow resistance is specified as the steady (DC) flow resistance of the material, corresponding to a specified air flow rate through the material." The material referred to is the porous material mentioned in column 4, line 31. Thus, the air flow resistance range of 20 to 120 CGS Rayls refers to the porous insulation and not the total air flow of the system.

This conclusion is clearly supported by the language in the claims of Kraft et al. '787; note the following language in claim 1:

At least some of the walls being entirely porous and air-permeable to provide steady flow resistance therethrough of about 20 to 120 CGS Rayl. (underline added)

See also claims 10 and 17. Thus, contrary to the statements in the Office Action, Kraft et al. '787 does not teach a total system air flow resistance of around 900 to 1300 MKS Rayls.

Even if one of ordinary skill was motivated to combine the teachings of Haines et al. '973 and Kraft et al. '787, the resultant system would not have a facing material with a relatively low air flow resistance and a total system air flow resistance within

the range of around 900 to 1300 MKS Rayls. Nor would the system obtained by combining the disclosures of the cited art include a facing material having an air flow resistance of around 100 to 642 or 100 to 500 MKS Rayls and a total system air flow resistance of around 900 to 1300 MKS Rayls.

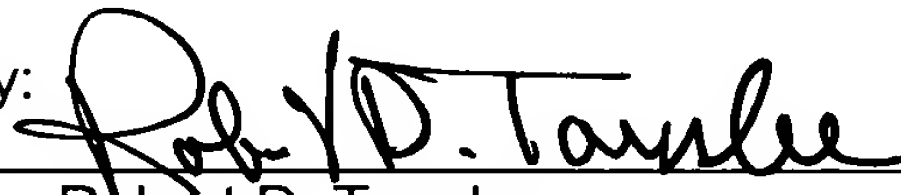
Accordingly, for at least the above reasons, the §103(a) rejection should be withdrawn. Such action is earnestly requested.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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